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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the British Humanist Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Blasphemy laws, vigilantism and a lack of due process

Blasphemy laws[1] stand in opposition to international human rights law. This fact is non-negotiable. Not only is the concept of blasphemy fundamentally inconsistent with the principles outlined in Articles 18 and 19 of the International Covenant on Civil and Political Rights, General Comment 34 explicitly affirms that, "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant"[2]. Blasphemy laws undermine the rights to freedom of belief and freedom of expression and are discriminatory by nature, insofar as they afford different levels of protection to different religions[3].

This acknowledged inconsistency of blasphemy laws with international standards is but one of many problems related to their continued presence on penal codes, however. Firstly, the prohibition of so-called blasphemy has become "an increasingly common way for governments to silence debate; not only debate about religion *per se* but to silence dissenting views on politics, calls for individual freedoms, or to provoke hatred against minorities"[4]. Secondly, such laws risk legitimising religious intolerance, creating a permissive environment for vigilante justice and inter-communal violence. Thirdly, the concomitant social stigma that comes with blasphemy laws has been shown to inhibit the individual's right to a fair trial and due process of law. The recourse to justice for those accused of blasphemy is at best, skewed; at worst, non-existent.

Blasphemy and Vigilantism

The mere existence of blasphemy laws in a country can be seen by those engaging in vigilante 'justice' to legitimise their actions; the conflation of religious sensitivities with legal provisions, the punishments for which are often state-sanctioned death or extreme violence, fosters an environment in which extra-judicial aggression can, and does, flourish. The ambiguous wording of blasphemy laws – which include 'desecration', creating 'confusion among Muslims'[5], '[prejudicing] the Islamic faith'[6] or simply 'calling into question the fundamentals of the [...] religion on which [the] country is based'[7] – is encapsulated by their reliance upon the subjective and mutable notion of 'offense'. The consequent interpretations and applications of the law are not only absurd in their reliance on assuming something like a correct, inviolable standard of *religion* which is being blasphemed against, but lead to stark inconsistencies in application, both within and outside the courtroom.

Vigilantism against individuals is widespread, and such acts are typically committed with impunity. State passivity in the face of extrajudicial violence amounts to tacit sanction of criminal activity and further perpetuates the notion that some people, by virtue of their affiliation, or lack thereof, to a different religion or belief system, are a just target for abuse. Furthermore, government officials and prominent religious leaders have been known to stoke the flames of popular outrage through public declarations calling for the immediate deaths of blasphemers[8], the publication of the accuseds' addresses[9] or specific hate campaigns against people accused of blasphemy[10].

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[1] The International Humanist and Ethical Union's 2014 *Freedom of Thought Report* found that 55 countries had criminal laws restricting blasphemy. See: http://freethoughtreport.com

[2] CCPR/C/GC/34 48

[3] http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

[4] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/041/49/PDF/G1404149.pdf?OpenElement

[5] Malaysian blasphemy law. *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*, Paul Marshall and Nina Shea, OUP (2011), p. 313

[6] Yemeni blasphemy law. Ibid, p. 131

[7] Article 1 of Saudi Arabia's anti-terrorism law, which defines atheism as terrorism. http://end-blasphemy-laws.org/countries/middle-east-and-north-africa/saudi-arabia/

[8] http://www.hudson.org/research/10755-destroying-pakistan

[9] http://www.ahmadiyya.ca/press/AnnualNewsReport2011.pdf, http://www.torontosun.com/2014/05/16/teen-kills-man-accused-of-blasphemy-in-pakistan-police-station

[10] See, for example, entries on "Mauritania" or "Pakistan" in the *Freedom of Thought Report 2014*, at http://freethoughtreport.com

Some examples:

- In Pakistan, whilst there have been no official executions for blasphemy, at least 60 individuals have been murdered outside the Pakistani justice system in related cases[11] since 1990: the real statistic may be much higher. Indeed, the reports surrounding blasphemy and extrajudicial violence cite Pakistan more frequently than any other country. In November 2014, it was reported that a police officer used an axe to kill a man accused of blasphemy[12]. In another incident, a man who tripped onto a stove and accidentally singed himself and a Qur'an, was apprehended by vigilantes and burned to death for his transgression[13].

- In Bangladesh, blogger Ahmed Haider was murdered in February 2014 by a mob amidst chants of "God is great! Hang the atheist bloggers!"[14].

Blasphemy and Inter-communal Violence

Blasphemy laws heighten religious animus: legal differentiation between citizens on the basis of their faith necessarily precludes the equal enjoyment of human rights, thus standing counter to the very principle of the Human Rights Council. The very notion of blasphemy creates a permissive environment for the persecution of minority groups, whether this is manifested in their de facto silencing, or in inter-communal violence. Concepts of 'riddah' (apostasy) or being 'kafir' (infidels) are invoked to justify attacks on minority belief groups. An individual blasphemy accusation can often serve, therefore, as a match to a tinderbox, catalysing latent intolerance into an active riot.

Some examples:

- Alexandria, Egypt, 2005: Following a newspaper report that a play performed in a local Church had "insulted Islam", a 5,000-strong mob attacked eight churches, killing four and injuring ninety[15].

- Gorja City, Pakistan, 2009: Following the alleged desecration of the Quran at a Christian wedding, Muslim demonstrators set fire to houses within the Christian enclave, causing the death of six people[16].

- Prosecutions for blasphemy under the penal code are virtually non-existent in Nigeria, but there have nevertheless been numerous incidents of violence stemming from unsubstantiated accusations of blasphemy, particularly against the Christian community[17].

Blasphemy and a lack of due process

Blasphemy laws and the concomitant fear of reprisals pervade judicial as well as social spheres, often inhibiting the right to due process and a fair trial as enshrined in Article 14 of the ICCPR.

Firstly, the social stigma and public outrage caused by blasphemy accusations can result in disproportionate pressure on the judiciary to ensure a conviction[18]. Irregularities and inconsistencies are commonplace in blasphemy trials: there are many reports in which the investigative process has lacked basic standards and the evidence provided is objectively

[11] http://crss.pk/wp-content/uploads/2010/07/Report-on-Blasphemy-Laws-.pdf)
[12] https://au.news.yahoo.com/world/a/25451160/policeman-kills-blasphemy-suspect-with-axe/
[13] Silenced, Marshall and Shea (2011) p. 15
[14] http://www.bangladeshchronicle.net/index.php/2013/04/bangladesh-protesters-demand-blasphemy-law/
[15] Silenced, Marshall and Shea (2011), p. 8
[16] http://edition.cnn.com/2009/WORLD/asiapcf/08/01/pakistan.sectarian.violence/
[17] E.g., http://allafrica.com/stories/201404010386.html (2014); http://www.irinnews.org/report/76570/nigeria-deadly-sectarian-riot-over-alleged-blasphemy (2008)
[18] http://religion-compass.com/2011/01/05/blasphemy-laws-in-pakistan-2/

insufficient for a conviction[19]. Furthermore, judges in Pakistan have reportedly been attacked for failing to ensure a conviction[20].

Secondly, lawyers can be reluctant to take defence cases due to the violent repercussions that many have faced. In Pakistan, renowned lawyer Rashid Rehman said that defending someone accused of blasphemy was akin to "walking in to the jaws of death"[21]. Rehman has since been murdered for doing just that[22].

These inevitably ubiquitous fears of violence and persecution that exist in societies subjected to blasphemy laws, work to hinder any rational discussion of blasphemy laws and their modern usage, closing down dialogue not only regarding religious freedom but also legal practice.

Some examples:

- In 2011, in Pakistan, the security guard who had murdered the former Governor of Punjab, Salman Taseer, for his opposition to Pakistan's blasphemy laws was welcomed to the court by crowds scattering him with petals.

- Again in Pakistan, in two politicians were murdered last year for having discussed reforming the blasphemy laws[23].

Summary and Recommendations

Blasphemy laws work in opposition to all international standards and understandings of basic human rights and dignity. They are intrinsically bad laws; subjective and inconsistent in nature, with no "right way" to use them. Not only that, but they help legitimize vigilantism, mob violence, and persecution of minorities, inhibit due process and the enactment of justice, and protect religious beliefs and practices, institutions and leaders, from legitimate and often necessary criticism. It also should be noted that there is a plethora of existing international law, which addresses discrimination, personal defamation, and incitement in a more carefully focused way than blasphemy laws ever could, without threatening basic right of every individual to freedom of expression and belief.

Accordingly, we urge the Council to:

- Oversee the implementation of the Rabat Plan of Action, which, amongst many things, recommends the repeal of blasphemy laws worldwide.

- Ensure signatories of the ICCPR fulfil their obligations with regard to article 19 of that convention. Where states are not signatories or where they have reservations to articles 18 or 19, they should be encouraged by all possible means to sign the convention and withdraw reservations.

- Pressure states to publicly condemn, and more urgently, investigate harassment against those exercising their free expression. States should take active steps to prevent vigilante violence against those seeking to question or criticise religious or non-religious belief, practices or authorities. International trial observation is a mechanism that could be considered in those states where fair hearings have been found difficult to guarantee.

- Ensure that governments consistently enact freedom of speech laws in their countries, rather than selectively favouring speech the majority favours and prosecuting individuals for speech disapproved of by the majority.

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[19] In Pakistan, 'the law does not require evidence to be presented in court and there are no penalties for false allegations'. http://www.reuters.com/article/2014/05/08/us-pakistan-blasphemy-idUSBREA4709N20140508

[20] Ibid.

[21] http://www.nytimes.com/2014/05/08/world/asia/pakistani-activist-shot-dead-aided-blasphemy-suspects.html

[22] http://www.reuters.com/article/2014/05/08/us-pakistan-blasphemy-idUSBREA4709N20140503

[23] http://www.reuters.com/article/2014/05/08/us-pakistan-blasphemy-idUSBREA4709N20140508